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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,786	04/18/2005	Martin J. Weinstein	PB0288	3882
22840 7590 05/28/2008 GE HEALTHCARE BIO-SCIENCES CORP. PATENT DEPARTMENT 800 CENTENNIAL AVENUE PISCATAWAY, NJ 08855				
EXAMINER MENON, KRISHNAN S				
ART UNIT 1797		PAPER NUMBER		
MAIL DATE 05/28/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,786

Applicant(s)

WEINSTEIN ET AL.

Examiner

Krishnan S. Menon

Art Unit

1797

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 11-19 are pending as amended 4/9/08

Drawings

The drawings were received on 4/9/08. These drawings are acceptable.

Claim Rejections - 35 USC § 112

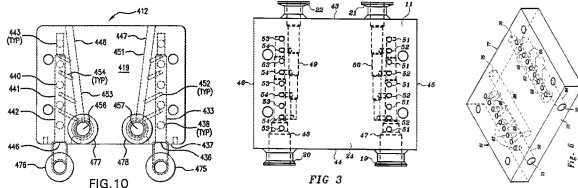
The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims recite the first plate as having the retentate channel and the second plate as having the feed and filtrate channels. However the disclosure shows by figures and description that the feed, retentate and filtrate channels as on the same end plate - first plate. Therefore, the claims are assumed as having a typo, and that all the channels are on the same end plate for examination purpose. Also, the "end" in the "second **end** plate" in the claims appears to be a typo: there is no separate second end plate disclosed along with a first plate and a second plate.

Claim Rejections - 35 USC § 103

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Latour et al (US 4,849,102) and/or Friedman (US 4,715,955).



Applicant' figure 10, assumed to be best representing the claims in comparison with figure 5 of Latour and figure 6 of Friedman.

Latour teaches a filtration housing and cassette assembly (12, see figures), in which the housing comprises first and second parallel plates (11,13,14), plate 11 having feed inlet (19) and retentate outlet (20) channels at opposite edges, and filtrate channels (21,22) having first portions (49,50) and second transverse portions (connecting 49 to 54 and 50 to 52) as claimed. These channels communicate with the respective feed, retentate and filtrate channels of the cassettes. The plates are movable on frames to change the number of cassettes loaded as desired.

The teaching of the reference differs from the claims in the 'acute' orientation of the transverse filtrate channels with respect to an upper surface of the first end plate. Friedman teaches the transverse filtrate channels as being at an acute angle with a face of the end plate, but this does not appear to be the "upper surface" as claimed. The [first] plate (11) of Latour is also a central plate (communication to the filter cassettes from both major surfaces), whereas the applicant depicts it as an end plate (communication to the cassettes only from one major surface). Latour refers to Friedman and teaches his design as an improvement over that of Friedman, who has the plate with inlet and outlet channels at an end. However, the "acute" orientation of the transverse filtrate channel is only an obvious design change in shape and/or orientation, which one of ordinary skill in the art is capable of; and are not patentable unless can be shown otherwise. Changes of size, shape, etc without special functional significance are not patentable. *Research Corp. v. Nasco Industries, Inc.*, 501 F.2d 358; 182 USPQ 449 (CA 7), cert. denied 184 USPQ 193; 43 USLW 3359 (1974). Applicant has not demonstrated any criticality of having the acute angles in the transverse filtrate channels to overcome a prima facie case of obviousness.

Response to Arguments

Applicant's arguments filed 4/9/08 have been fully considered but they are not persuasive.

Arguments are not commensurate in scope with the rejection. The rejection already pointed out that the acute angles as recited is not taught by the reference, but

then the examiner submits that the "acute" angle as recited is not critical to the transverse filtrate channels. Applicant also appears to be mixing up on which channel is having the acute angle – there is no acute angle recited for the feed channels.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S. Menon whose telephone number is 571-272-1143. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Krishnan S Menon/
Primary Examiner, Art Unit 1797